



GUIDANCE DOCUMENT

DATE: October 16, 1995

TITLE: Public Notice Requirements under the California Environmental Quality Act

AFFECTED PROGRAMS: Site Mitigation
Hazardous Waste Management
Public Participation
Office of Pollution Prevention and Technology Development
Office of Legal Counsel and Criminal Investigations

PURPOSE:

The purpose of this memorandum is to provide guidance relating to changes in the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) affecting the manner in which public notice is provided by the Department of Toxic Substances Control (DTSC).

BACKGROUND

California Public Resources Code (PRC) section 21092 has been amended to require any Lead Agency preparing an Environmental Impact Report (EIR), a Negative Declaration or a Master EIR to provide public notice of that fact within a reasonable period of time prior to certification of the EIR or adoption of the Negative Declaration (Stats. 1993, ch. 1130). This section also requires the public notice to specify any significant effects on the environment anticipated as a result of the project, the period during which comments will be accepted on the draft EIR or Negative Declaration, the date, time, and place of any public meetings or hearings on the proposed project, a brief description of the proposed project and its location, and the address where copies of the draft EIR or Negative Declaration, and all documents referenced in the draft EIR or Negative Declaration are available for review.

In addition to the requirements identified above, PRC section 21092.3 was also amended to require that notices for an EIR be posted in the office of the county clerk of each county in which the project will be located and shall remain posted for a period of 30 days (Stats. 1993, ch. 1130).

PRC section 21092.3 requires notices for a Negative Declaration to be posted in the Office of the County Clerk of each county in which the project will be located for a period of 20 days, "unless otherwise required by law to be posted for 30 days." DTSC draft Negative Declarations require a 30 day public review. As a result, the notice must be posted by the county clerk for 30 days.

GUIDANCE INSTRUCTIONS FOR DRAFT ENVIRONMENTAL DOCUMENTS

The amendments to PRC sections 21092 and 21092.3 relate to the notification of the preparation of draft Negative Declarations and EIRs. The following procedures describe the process within DTSC to be applied to ensure compliance with these amendments.

Draft Negative Declarations

Upon completion and approval of a draft Negative Declaration by the Branch Chief, the project manager shall send ten (10) copies of the draft document, the Notice of Completion/Environmental Document Transmittal Form, and the applicable Initial Study to the Office of Planning and Research (OPR). Copies must also be sent to 1) affected local agencies having an interest in the project and, 2) the Office of Program Audits and Environmental Analysis (OPAEA) project liaison.

In addition, the project manager shall send one copy of the Notice of Completion/Environmental Document Transmittal Form to the county clerk where the project is located. A copy of the draft Negative Declaration and Initial Study should not be sent to the county clerk unless requested. The packet sent to the county clerk must be accompanied by a formal notice following the format contained in ATTACHMENT A.

Environmental Impact Reports

a) Notices of Preparation

Upon completion of a Notice of Preparation (NOP) for an EIR required pursuant to PRC section 21080.4, the project manager shall send ten (10) copies of the NOP and one copy of the Notice of Completion/Environmental Document Transmittal Form to OPR. Copies must also be sent to 1) affected agencies having interest in the project; 2) the OPAEA project liaison; and 3) the county clerk of the county where the project is located. The packet sent to the county clerk must be accompanied by a formal notice following the format contained in ATTACHMENT A.

b) Draft Environmental Impact Reports

Upon completion and approval of a draft EIR by the Branch Chief, the project manager shall send ten (10) copies of the document and one copy of the Notice of Completion/Environmental Transmittal Form to OPR. Copies must also be sent to 1) affected agencies having an interest in the project; and 2) the OPAEA project liaison.

In addition, the project manager shall send one copy of the Notice of Completion/Environmental Document Transmittal Form to the county clerk where the project is located. A copy of the draft EIR should not be sent to the county clerk unless requested. The packet sent to the county clerk must be accompanied by a formal notice following the format contained in ATTACHMENT A.

Other Notice Requirements

In addition to the notice requirements indicated above, other statutory and regulatory requirements related to providing public notification regarding draft CEQA documents also exist. These requirements include the following:

Title 14, CCR. section 15072 and section 15087

These sections were amended to establish additional procedures for the public notice of draft Negative Declarations and EIRs, respectively. For both documents, notice shall be given to all organizations and individuals who have previously requested such notice and shall also be given by at least one of the following:

Publication at least one time in a newspaper of general circulation in the area affected by the proposed project (note: "area" would be identified by the scope of the environmental assessment conducted by DTSC); posting of notice on and off site in the area where the project is to be located; and

direct mailing to owners and occupants of the property contiguous to the project. Owners of such property shall be identified as shown on the latest equalized assessment role.

PRC section 21092 (c)

This section imposes additional public notice requirements for any project involving the burning of hazardous waste, as specified. These requirements apply to both the construction of a new facility and the expansion of an existing facility which burns hazardous waste which would increase its permitted capacity by more than ten percent (10%).

Additional changes imposed by this section include the following requirements:

- 1) If more than one area will be affected by the project, notice shall be published in a newspaper of largest circulation from among the newspapers of general circulation covering the overall area (note: "area" would be identified by the scope of the environmental assessment conducted by DTSC);
- 2) notice shall be given by direct mailing to owners and occupants of the property within one-fourth (1/4) of a mile from the project; and
- 3) notice shall be given to the last known name and address of all organizations and individuals who had requested such notice.

PRC section 21092.2

This section requires DTSC to mail a notice required by PRC section 21092 to any person who has filed a written request for notices with the "director of the (Lead) agency."

Responsibility for implementation of the public notice requirements identified above shall continue to rest with the program proposing to carry out a particular project. It is essential that project managers coordinate public notice efforts pursuant to direction provided in the document entitled Public Participation Policy and Procedures Manual, July 1994 (EO-94-002-PP; Section 600 et seq.).

GUIDANCE INSTRUCTIONS FOR FINAL ENVIRONMENTAL DOCUMENTS

It is important to note that the noticing requirements established under the PRC and CCR as detailed above relate to the initial stages of EIR or Negative Declaration preparation. Once these documents advance to the final stages, there are specific notice requirements for final certification and adoption of the EIR and Negative Declaration, respectively. These requirements are identified below.

Notices of Determination

After DTSC has decided to carry out or approve a project for which a final Negative Declaration or EIR has been approved, it must file a Notice of Determination (NOD) with OPR (PRC section 21108, Title 14, CCR, sections 15075 and 15090). Specific procedures for filing a NOD are contained in Policy and Procedure document EO-93-012-PP.

A copy of the NOD is required to be sent to any person who has filed a written request for notices with the director of the agency. State agencies are not required to file a NOD with the county clerk, they are only required to file with OPR.

The project manager shall coordinate public notice efforts pursuant to direction provided in the document entitled Public Participation Policy and Procedures Manual, July 1994 (EO-94-002-PP; section 600 et seq.).

The 30-day time period for filing a challenge on a CEQA determination expires 30 days from the date the NOD is posted by OPR. If a person submits a written request to the public agency for a copy of the NOD within the 30-day posting period, the statute of limitations is extended for 30 days from the date the public agency deposits the notice in the United States mail, first-class postage prepaid.

Because this can result in an extended statute of limitations to challenge a CEQA determination, the program should respond to written requests for a copy of the NOD as soon as possible, and maintain evidence of the date the NOD was mailed in the record for future reference.

CONTACT:

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10/16/95

Date

Robert P. Hoffman
Chief Counsel

NOTICE OF PREPARATION OF AN ENVIRONMENTAL DOCUMENT
PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
BY
STATE OF CALIFORNIA
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

This Notice is being sent to your office as required of the Department of Toxic Substances Control pursuant to California Public Resources Code (PRC) section 21092 and section 21092.3. As specified in PRC section 21092.3, notices for an Environmental Impact Report (EIR) must be posted in the office of the county clerk of each county in which the project will be located. Such notices for an EIR are required to remain posted for a period of 30 days. In addition, notices for a Negative Declaration are required to be posted for a period of 20 days, unless otherwise required by law to be posted for 30 days. The county clerk is required to post these notices within 24 hours of receipt.

1. TYPE OF DOCUMENT:

- ☐ Notice of Preparation
- ☐ Draft Environmental Impact Report
- ☐ Draft Negative Declaration

2. PROJECT NAME:

3. PROJECT LOCATION:

4. PROJECT DESCRIPTION:

5. ANY SIGNIFICANT EFFECTS ON THE ENVIRONMENT:

6. PERIOD DURING WHICH COMMENTS ON THE DOCUMENT WILL BE RECEIVED:

Start Date:_____ End Date:_____

7. DATE, TIME AND PLACE OF ANY PUBLIC HEARINGS ON THE PROPOSED PROJECT:

8. ADDRESS WHERE COPIES OF THE DOCUMENT AND ALL REFERENCED DOCUMENTS ARE AVAILABLE FOR REVIEW:

Department:
Street Address:
City/State/Zip